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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/939,808	08/28/2001	Muneki Nakao	35.C15838	2948
5514	7590	10/16/2006	[REDACTED]	[REDACTED] EXAMINER
FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			[REDACTED] POON, KING Y	[REDACTED] ART UNIT PAPER NUMBER
			2625	

DATE MAILED: 10/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/939,808	NAKAO ET AL.	
	Examiner	Art Unit	
	King Y. Poon	2625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 20 April 2006.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 15-18,25-28 and 33 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 15-18,25-28 and 33 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 28 August 2001 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ . | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "a change portion configured to change a communication state with other communication apparatus by said wireless communication portion into a state of low electric power consumption when the predetermined function of the other communication apparatus is confirmed as not the error state, and not to change a communication state with the other communication apparatus by said wireless communication portion into a state of low electric power consumption when the predetermined function of the other communication apparatus is confirmed as the error state," must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an

application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The amendment filed 4/20/2006 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: a change portion configured to change a communication state with other communication apparatus by said wireless communication portion into a state of low electric power consumption when the predetermined function of the other communication apparatus is confirmed as not the error state, and not to change a communication state with the other communication apparatus by said wireless communication portion into a state of low electric power consumption when the predetermined function of the other communication apparatus is confirmed as the error state.,

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 33, while defining storage medium, does not define a “computer-readable medium” and is thus non-statutory for that reasons. A storage medium can range from paper on which the program is written, to a program simply contemplated and memorized by a person. The examiner suggests amending the claim to embody the program on “computer-readable medium” in order to make the claim statutory.

“In contrast, a claimed computer-readable medium encoded with the data structure defines structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure’s functionality to be realized, and is thus statutory.” - MPEP 2106.IV.B.1(a)

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 15-18, 25-28, 33 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The limitation of “a change portion configured to change a communication state with other communication apparatus by said wireless communication portion into a state of low electric power consumption when the predetermined function of the other communication apparatus is confirmed as

not the error state, and not to change a communication state with the other communication apparatus by said wireless communication portion into a state of low electric power consumption when the predetermined function of the other communication apparatus is confirmed as the error state," is subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 15-18, 25-28, 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Petteruti (US 6,379,058) in view of Larsson et al (US 6,463,307) and Pinard et al (US 6,580,700).

Regarding claims 15, 25: Petteruti teaches a communication apparatus (portable terminal, column 4, lines 30-35), comprising: a wireless communication portion (column 4, lines 32) configured to wireless communication with another communication apparatus (portable printer running with battery, column 3, lines 45-50, column 4, lines 10-15); a conformation portion (the portion of the program that causes the host to perform the function explained below, column 4, lines 30-35) configured to execute a

process for confirming an error state (status, column 8, lines 15-20; it is well known in the art that status of a printer includes error state of the printer, official notice; column 9, lines 65-68) of a predetermined function (e.g., communication error of NAK packet, column 10, lines 1-10; note it is also well known in the art that a paper jam or no toner in the printer would case the printer busy because the printer won't be able to print any print job, official notice) of the other communication apparatus; a change portion (the portion of the program that causes the host to perform the function explained below, column 4, lines 30-35) configured to change a communication state with other communication apparatus by said wireless communication portion into a state of no communication of data if there is no data to be transmitted (inherent) and when the predetermined function of the other communication apparatus is confirmed as not the error state (column 10, lines 5-25, if there is error state, the system will trying to retransmitted the packet), and not to change a communication state with the other communication apparatus by said wireless communication portion when the predetermined function of the other communication apparatus is confirmed as the error state (column 10, lines 5-25).

Although Petteruti suggested a power saving mode, column 40-45; Pettreruti does not teach the system going into low electric power consumption when there is no data to transmitted and not change to low electric power consumption when the system is trying to communicate (although is very obvious that inactive includes no communication).

Larsson, teaches a system of using IEEE 802.11 protocol for wireless communication, column 2, lines 40-50, to reduce the power consumption of a device, particular in the environment of using batteries, by having the device going into low electric power consumption when there is no data to transmitted (403-408, fig. 4) and not change to low electric power consumption when the system is trying to communicate (see yes, of 403 of fig. 4).

Pinard, teaches IEEE 802.11 is especially designed for the type of communication (RF communication, column 1, lines 55-65) of Petteruti and particular important for batteries operated device to have power saving mode standard according to IEEE 802.11.

Therefore, it would have been obvious to a person with ordinary skill in the art at the time the invention was made to have modified Petteruti to include: a change portion configured to change a communication state with other communication apparatus by said wireless communication portion into a state of low electric power consumption when the predetermined function of the other communication apparatus is confirmed as not the error state, and not to change a communication state with the other communication apparatus by said wireless communication portion into a state of low electric power consumption when the predetermined function of the other communication apparatus is confirmed as the error state.

Regarding claim 33: Petteruti teaches a computer readable medium of storing a program for the portable terminal of claim 15 (column 4, lines 35-40).

Regarding claims 16, 26: Petteruti teaches wherein said change portion changes the state of said wireless communication portion from the state of low electric power consumption to a communication state capable of receiving command data or image data between said communication apparatus and the other communication apparatus (fig. 6B).

Regarding claims 17, 27: Larsson teaches wherein the change by said change portion is executed by sending a request for a change of the state from said communication apparatus to the other communication apparatus (404, 408, fig. 4).

Regarding claims 18, 28: Petteruti teaches wherein said wireless communication portion is put into a connection state capable of transmitting and receiving command data or image data between said communication apparatus and the other communication apparatus in response to a rise of the power source of the other communication apparatus (fig. 6B, printer is to be on to communicate, column 5, lines 40-45, also see discussion of claims 15, 25).

Response to Arguments

8. Applicant's arguments with respect to claims 15-18, 25-28, 33 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to King Y. Poon whose telephone number is 571-272-7440. The examiner can normally be reached on Mon-Fri 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Coles can be reached on 571-272-7402. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

October 4, 2006



KING Y. POON
PRIMARY EXAMINER